

The Acoustical Society of New Zealand Incorporated

Rules of Conduct, Dispute Resolution and Disciplinary Measures

This Rules of Conduct, Dispute Resolution and Disciplinary Measures document forms part of, and shall be read in conjunction with the Acoustical Society of New Zealand Incorporated Constitution.

RULES OF CONDUCT

- 1 Members shall exercise their professional and technical skills and judgement to the best of their ability and shall discharge their professional and technical responsibilities with integrity.
- 2 Members shall refrain from and discourage criticism in public of another member's work, experience and/or character. This does not preclude members in their professional capacity from providing responsible comments on the work of other members when called upon to do so in the course of their employment (i.e. peer review).
- 3 No member shall review the work of another member without taking reasonable steps to ensure that such member is informed.
- 4 No member shall attempt to supplant another member, nor take over work of another member until clear notification has been received from the employing party that the service of the other member has been discontinued or terminated in accordance with the other member's terms of engagement.
- 5 No member shall misrepresent their competence nor, without disclosing its limits, undertake work outside their area(s) of expertise.
- 6 When called upon to give an opinion in a professional capacity, members shall give an opinion that is objective and reliable to the best of their ability.
- 7 However engaged, members shall at all times recognise their responsibilities to their employer or client, others associated with their work, the public interest, their profession, and the ASNZ.
- 8 When a member's professional advice is not accepted, the member shall take reasonable steps to ensure that the person overruling or neglecting that advice is made aware of the possible consequences.
- 9 In respect of a professional relationship, whether with employer or client, a member shall disclose any financial or other interest they may have which constitutes a conflict of interest.
- 10 A member shall respect the confidentiality of information relating to the business of their client or employer.

- 11 A member shall avoid being placed under any obligation to a third party in their dealings on behalf of their client or employer.
- 12 Members shall strive to act in such a way as to promote the objectives and best interests of the ASNZ.
- 13 Members shall strive to develop their professional reputation on merit and shall use their best endeavours to act, at all times, in an equitable, honest, respectful and inclusive manner.
- 14 Members shall strive to extend their knowledge and skills to achieve continuous professional development and shall actively assist and encourage those under their direction, or with whom they are associated, to also do so.

DISPUTE RESOLUTION AND DISCIPLINARY MEASURES

- 15 Dispute Resolution and Disciplinary Measures
 - a) A dispute may be between members, Officers, the ASNZ, or any member of the public having dealings with a member, Officer or the ASNZ.
 - b) A dispute is where it is alleged any member, Officer, or the ASNZ has:
 - i. engaged in misconduct; and/or
 - ii. has breached or is likely to breach its obligations and duty to comply with the Rules of Conduct and/or any duty under the ASNZ's Constitution or the Incorporated Societies Act 2022; and/or
 - iii. damaged the rights or interests of a member, or the rights or interests of members or the ASNZ generally
 - c) A complaint may be made to the Council by a complainant, which starts the procedure for resolving a dispute in accordance with this Constitution.
 - d) For a complaint to be lodged, the ASNZ Complaint Pro Forma must be completed in full, to the best of the complainant's knowledge, and submitted as directed. This submission is considered as giving the complainant reasonable opportunity to be heard.
 - e) To ensure all members of the ASNZ are treated with dignity and respect, any act of aggression, intimidation or violent behaviour towards our members will not be tolerated under any circumstances. The ASNZ retains the right to refuse to deal with a complaint if it considers the complainant to act in such manner.
 - f) The Council may initiate an inquiry if it has reason to suspect that a member may have breached their obligations or supplied false or misleading information for the purpose of becoming a member. The Council may delegate the power to initiate an inquiry, carry out an investigation of the matter in accordance with this Constitution as if it were a complaint; or if a complaint on that matter has already been made, continue to inquire into the matter even if the complaint is subsequently withdrawn.

- g) The complainant may, at any time, withdraw their complaint in writing to the President or Adjudicator. The Council may choose to continue its consideration of the complaint if in the Council's view it is in the public interest to do so but shall represent the complaint as one initiated by the ASNZ and take reasonable steps not to disclose the identity of the original complainant. Otherwise, no further action will be taken.
- h) Should the Council receive two or more intended complaints that allege substantially similar breaches of obligations relating to the same matter, the Council may treat the complaints as a single complaint.
- i) All reasonable steps shall be taken to ensure that under the Constitution, any disputes are dealt with in a fair, efficient and effective manner. The procedures outlined are treated as being consistent with the rules of natural justice.
- j) There will be no liability for any loss or injury suffered by the complainant, affected member, or any other party involved, as a result of any decision(s) made in good faith under this Constitution.

16 Initial Evaluation

- a) In the event of the receipt of a complaint of alleged improper conduct, competence or behaviour, the information as received via the ASNZ Complaint Pro Forma in writing will be forwarded to the Adjudicator. The Adjudicator is an Officer, who must be impartial, have no conflict of interest, and be able to consider the matter without a predetermined view. This Officer will act as an Adjudicator, who will review and confidentially discuss with one other impartial Officer, deciding to:
 - i. dismiss the complaint, or
 - ii. refer the complaint to the Council for further investigation.
- b) A complaint may be dismissed at the initial evaluation stage where insufficient information is provided or the prescribed conditions are not met, due to one or more of the following:
 - i. The complaint is against a person or persons who are not member(s) or were not member(s) at the time of the alleged infraction.
 - ii. The complaint refers to matters that for which the member has no obligations or duty to the ASNZ.
 - iii. The matter is in the process of being heard by another legal or regulatory body (e.g. a Crown Entity, New Zealand Police, Courts of New Zealand, Regional or District Councils, Engineering New Zealand, and the like).
 - iv. The conduct, incident, event or issue giving rise to the complaint has already been investigated and dealt with by, or on behalf of, under the Society's Constitution.

- v. The person who makes the complaint has insignificant personal interest in the matter.
 - vi. The alleged misconduct is insufficiently grave, e.g., is without foundation or has no apparent evidence to support it.
 - vii. The complaint is trivial, frivolous or vexatious, or not made in good faith.
 - viii. The complaint is historic in nature, such that given the time elapsed since the matter giving rise to the complaint makes an investigation practical.
 - ix. The person alleged to be aggrieved no longer wishes to proceed.
 - x. The person who makes the complaint wishes to remain anonymous or asks that certain information remain confidential, and this prevents the ASNZ from carrying out a fair process.
 - xi. The ASNZ Complaint Pro Forma has not been completed in full, with a signed declaration, and submitted as directed.
- c) If the Adjudicator dismisses the complaint, they will inform the complainant and the President to the reason(s) why. They may also outline options for alternative dispute resolution pathways if applicable.

17 Complaints Process

- a) Where the initial evaluation process by the Adjudicator has resulted in the complaint being referred to the Council for further investigation, the Adjudicator shall notify both the complainant and the affected member of the decision from the initial evaluation process.
- b) The Council shall appoint a Disciplinary Panel comprising of at least three Officers including the Adjudicator. Individuals on the Panel must not have any conflicts of interest (i.e. they must not be employed by the same company as the affected member, and if the complaint relates to a particular project, they must not have been involved in that project). External advisors or moderators may be engaged, if the Council deems it necessary, including if there are insufficient Officers who:
 - i. have no conflicts of interest, and
 - ii. are without prejudice, and
 - iii. are available.
- c) The affected member has the right to be heard and shall have 20 working days to respond to the Panel in writing regarding the complaint, setting out any matters and attaching any materials as evidence that the member deems relevant to the complaint. If no response is received by the Panel after 20 working days, it is assumed that the affected member has no further material or evidence they wish to be considered by the Panel.

- d) The Panel shall give due consideration to the complaint and the response of the affected member (if received).
- e) Before making any decision on a complaint, the Panel may explore with the complainant and affected member, the possibility of the matter which gave rise to the complaint being referred to conciliation, facilitation, mediation, arbitration, or any other dispute resolution process.
- f) The Panel, with sole discretion after due consideration, will decide either to:
 - i. Request additional information from the complainant and/or affected member to assist further investigation. Further submissions are to be made within 10 working days and the President, complainant and affected member are to be updated by the Adjudicator of the progress as appropriate.
 - ii. Dismiss the complaint.
 - iii. Uphold the complaint.
- g) Where the Panel decides that the complaint lacks substance, the complaint shall be dismissed, and the Panel may suggest that some further action be taken. The Panel may warn or send an informative letter to the affected member as they see fit. The complainant, affected member, and President shall be advised in writing of this outcome by the Adjudicator as soon as practicable.
- h) If the complaint is upheld, the Adjudicator (on behalf of the Panel) shall immediately report this to the President. The Adjudicator or President shall advise the complainant and the affected member that the complaint has been upheld, and any resulting measures imposed. The Panel may impose any number of the following measures:
 - i. The affected member is to receive a written reprimand.
 - ii. Suspension of membership for a notified period, or until a condition requiring the respondent to undertake training or professional development is met. The duration of the notified period is to be determined by the Panel and the President.
 - iii. Expulsion from the membership of the ASNZ, and if the circumstances of the breaches are wide ranging and/or significant, the member's name may be published.
 - iv. Requiring the member to relinquish or be suspended for a notified period from any official position(s) within the ASNZ. The duration of the notified period is to be determined by the Panel and the President.
 - v. The Panel shall have full discretion to inform interested parties - such as, but not limited to, Engineering New Zealand, Regional or District Councils, NZ Tertiary Institutions, Association of Australasian Acoustical Consultants, or other acoustical societies of the outcome of the disciplinary proceedings against a member, at any time.

- vi. Any other recommendation as deemed appropriate by the Panel. This may include reassessment of the member's competence, or request that the member undertakes further education in order to retain or reinstate their membership status.
- i) Disciplinary procedures must be completed as soon as reasonably practicable.
- j) The Panel may or may not at its sole discretion set out all reasons for its decision and is under no obligation to do so otherwise.
- k) If the complaint is against the ASNZ or its Officers, the Council will refer to complaint to the Panel, who may appoint a person or persons independent of the ASNZ to investigate and form a decision.
- l) The ASNZ cannot impose a monetary fine on a member.

18 Appeals

- a) The complainant and affected member each have 10 working days to lodge an appeal against the decision of the Panel.
- b) A lodged appeal will only be accepted on the basis that the appellant provides new evidence that could materially change the outcome of the decision.
- c) Where an appeal is lodged, the Council shall appoint an Appeals Panel of at least three long standing members with experience in the relevant field. The Appeals Panel shall reassess all existing and new evidence and request more information as necessary.
- d) The Appeals Panel shall have the same authority as the Disciplinary Panel, pursuant to clauses 15 to 19 of this document. This includes the matter which gave rise to the appeal being referred to conciliation, facilitation, mediation, arbitration, or any other dispute resolution process.
- e) The decision of the Appeals Panel shall be final and binding.

19 Confidentiality

- a) The initial evaluation, complaints process, and any appeals are confidential to the parties involved, to protect people's privacy and encourage parties to participate in an open and honest way. All correspondence relating to the complaint will be securely held by the Adjudicator.
- b) Except where a complaint is upheld in accordance with clause 17(h) of this document, the complainant, affected member and Disciplinary Panel individuals shall not be named in any Council correspondence to the membership, including at General Meetings. The Council may report the number of complaints received since the last General Meeting, whether they were dismissed, further investigated, and/or upheld, any measures imposed, whether the decision was appealed, and if the appeal was upheld, at its sole discretion.
- c) The ASNZ will only share information relating to the complaint in accordance with Rules of Conduct, Dispute Resolution and Disciplinary Measures, and applicable legislation including the New Zealand Privacy Act 2020.

GLOSSARY OF TERMS

Act	New Zealand Incorporated Societies Act 2022
Adjudicator	An Officer who will review a received complaint, who must be impartial, have no conflict of interest, and be able to consider the matter without a predetermined view
Appellant	The complainant or affected member who has lodged an appeal against the decision of the Panel in accordance with Clause 18 of this document
ASNZ	Acoustical Society of New Zealand Incorporated
Complainant	The member, Officer, ASNZ or any member of the public who has raised a complaint
Complaint	Where a member, Officer, ASNZ, or any member of the public starts a procedure for resolving a dispute in accordance with the ASNZ Constitution
Dispute	A disagreement or conflict between two or more members, Officers, the ASNZ, or a member of the public, as outlined in Clause 15(b) of this document, which relates to an allegation of misconduct, breach of obligations and duty under the ASNZ Constitution or the Incorporated Societies Act 2022, or damaged the rights or interests of a member, Officer, or of the Society generally
Member	Any member of the ASNZ holding a position of Fellow, Executive Member, Member, Affiliate or Student, as defined in the ASNZ Constitution
Officer	An individual appointed to the ASNZ Council
Panel	Individuals of a Disciplinary Panel or Appeals Panel, investigating a complaint
President	The President of The Acoustical Society of New Zealand Incorporated
Society	Acoustical Society of New Zealand Incorporated
Working Day	As defined within the New Zealand Legislation Act 2019.

VERSION HISTORY

Version 1	April 2011
Version 2	September 2025 (this version)